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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,549	06/08/2001	Michael Florence	52126.00008 (Digeo 95)	9126

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DIGEO, INC C/O STOEL RIVES LLP  
201 SOUTH MAIN STREET, SUITE 1100  
ONE UTAH CENTER  
SALT LAKE CITY, UT 84111

EXAMINER

SALCE, JASON P

ART UNIT PAPER NUMBER

2614

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/877,549	<b>Applicant(s)</b> FLORENCE, MICHAEL	
	<b>Examiner</b> Jason P. Salce	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-61 and 65-78 is/are pending in the application.
- 4a) Of the above claim(s) 62-64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-61 and 65-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/15/2002</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 10/17/2002 was filed after the filing date of the instant application on 6/8/2001. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

### ***Election/Restrictions***

2. Claims 62-64 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/17/2005.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8, 10-20, 22-30, 32-34, 36-42, 52-61 and 75-78 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bedard (U.S. Patent No. 5,801,747).

Referring to claim 1, Bedard discloses a method for generating a list of favorites (see Figure 3) in an interactive television system (see Figure 4).

Bedard also discloses receiving a first notification, the first notification indicating a first channel activity (see step 300 in Figure 3 and Column 5, Lines 34-36).

Bedard also discloses receiving a second notification, the second notification indicating a second channel activity (see step 302 in Figure 3 and Column 5, Lines 36-37).

Bedard also discloses calculating a time difference between the first and the second notification (see step 304 in Figure 3 and Column 5, Lines 37-42).

Bedard also discloses updating a channel favorites table based on the calculated time difference (see step 312 in Figure 3 and Column 5, Lines 49-55).

Referring to claim 2, Bedard discloses that the updating includes adding the calculated time difference (the determination of if the time difference between channel changes exceeds a viewing time period at Column 5, Lines 37-42) to a first channel cumulative time field in the favorites table (see Figure 2 for a cumulative (total units) field in the favorites table and Column 4, Lines 51-54 for adding viewing units to the total viewing counter 204 field if a viewing unit is determined for a particular category in the channel favorites table).

Referring to claim 3, Bedard discloses updating further includes incrementing a counter in a first channel view frequency field of the favorites table (see field 206 in Figure 2 and Column 4, Lines 49-51 for an individual unit counter 206, which is incremented each time a program category is selected for each channel).

Referring to claim 4, Bedard discloses that the favorites table includes a favorites display preferences (see Figure 2 for the favorites table having a total of all viewing

units recorded and all viewing units for each category that are representative of favorite display preferences that will be displayed in an electronic program guide).

Referring to claim 5, Bedard discloses displaying a list of channels from the channel favorites table (see Figure 5 and Column 7, Lines 39-41).

Referring to claim 6, Bedard discloses that the list of channels is displayed according to the favorites display preference (see again Figure 5 and Column 7, Lines 39-41).

Referring to claim 7, Bedard discloses identifying a viewer of the interactive television system (see Figure 5 for identifying that the current viewer is "XINA").

Referring to claim 8, Bedard discloses that the updating is performed if the calculated time difference is larger than a predefined length of time (see Column 5, Lines 41-44). Further note that Bedard teaches that the time can be varied (predefined) at Column 4, Lines 7-9.

Referring to claim 10, Bedard discloses that the first and second activities include selecting a first and second channel, respectively (see Column 3, Lines 16-32 for selecting channels through an EPG).

Referring to claim 11, Bedard discloses that the first and second activities include selecting a first and second channel, respectively (see Column 5, Lines 34-38 and Figure 3).

Referring to claim 12, Bedard discloses that the first and second activities include viewing a first and second channel, respectively (see again Column 5, Lines 34-38 and Figure 3).

Referring to claims 13-20 and 22-24, see the rejection of claims 1-8 and 10-12, respectively.

Referring to claims 25, see the rejection of claim 1.

Referring to claim 26, see the rejection of claim 1.

Referring to claim 27, see the rejection of claim 4.

Referring to claim 28, see the rejection of claims 5-6.

Referring to claim 29, see the rejection of claim 7.

Referring to claim 30, Bedard discloses that the generation engine (the software that creates the EPG based on the favorite program calculations) and the display engine (the television) are capable to filter channel changes based on the calculated time difference (see Figure 3 for the software that calculates favorite channels and stores the results in memory and Figure 5 for the display engine displaying the favorite channels calculated by the algorithm of Figure 3).

Referring to claims 32-34, see the rejection of claims 10-12, respectively.

Referring to claims 36-37 and 39, see the rejection of claim 1.

Referring to claim 38, Bedard discloses that the list includes a plurality of channels listed based upon an associated numeral of a channel (see Column 1, Lines 45-50 for EPG being capable of displaying a channel number).

Referring to claim 40, Bedard discloses that the list includes a plurality of channels listed based upon an amount of selection of a channel (see Figure 2 for a total number of viewing units, which represents the amount of times a channel was selected that has exceeds the predetermined time threshold of viewing the program).

Referring to claim 41, Bedard discloses that the list is associated with a first identification (see Figure 2 for the list being associated with name of the channel, which represents a first identification).

Referring to claim 42, Bedard discloses that the generation engine is capable to generate a second list associated with a second identification (see Column 3, Lines 49-52 for storing multiple viewer profiles (lists) associated with identifications of different viewers, respectively).

Referring to claims 52-53, see the rejection of claim 1.

Referring to claim 54, see the rejection of claim 5.

Referring to claims 55-59, see the rejection of claims 38-42, respectively.

Referring to claims 60-61, see the rejection of claim 1.

Referring to claim 75, see the rejection of claim 1.

Referring to claim 76, see the rejection of claims 1 and 10 and further note that Bedard also teaches the limitations of prompting a viewer for authorization to update a channel favorites list (note that if the EPG in Figure 5 is displayed and a user selects a program then the program can be watch for a specified viewing time period (see the rejection of claim 1)) and if authorization is received (the program is viewed for a specified time period), updating the channel favorites list (see the rejection of claim 1). The examiner notes that the prompting limitations is being specifically interpreted as the user using the EPG (the prompt) for updating the favorite channel list, every time a program is selected from the EPG.

Referring to claim 77 and 78, see the rejection of claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 21 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bedard (U.S. Patent No. 5,801,747) in view of Belmont (U.S. Patent No. 5,819,156).

Referring to claims 9, 21 and 31, Bedard discloses all of the limitations in claim 8, but is silent for teaching that the predefined time can be set for about ten seconds.

Belmont discloses a viewer tracking and reporting device, which tracks activities of the viewer, such as channel changes (see Column 2, Lines 8-12 and Column 3, Lines 56-58). Belmont also discloses that the tracking device can track when a viewer watches a channel for 3-10 seconds, thereby clearly teaching that a length of time that can be calculated and recorded by a tracking system, can be about ten seconds or less than about ten seconds.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the favorite channel tracking system, as taught by Bedard, using the "channel surfing" tracking system, as taught by Belmont, for the purpose of providing a tracking device to track, record and report various uses of a



PC/TV convergence device, such as a set top box (see Column 1, Lines 65-67 of Belmont).

5. Claims 35, 43-44, 46-51 and 65-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bedard (U.S. Patent No. 5,801,747) in view of Alexander et al. (U.S. Patent No. 6,177,931).

Referring to claim 35, see the rejection of claim 1 (above) for Bedard teaching the favorite program channel table accumulation, calculation and display method.

Bedard also teaches a "push" model for accessing an external source of information (see Column 8, Lines 51-63).

However, Bedard is silent as to the creation of the favorite channel list being performed at a server.

Alexander discloses that the processing can be performed at either locally or remotely (at a television headend) at Column 28, Line 10 through Column 30, Line 58.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the local (set-top box) calculation of the favorite channel list, as taught by Bedard, to be performed at a server (television headend), as taught by Alexander, for the purpose of providing improved features to the EPG display and navigation (see Column 2, Line 8 of Alexander).

Referring to claim 43, see the rejection of claim 35 and further note that Bedard teaches that the receiving device on the viewer's side of the network can include a set-top box (see Column 3, Lines 4-8).

Claim 44 corresponds to claim 43, where Alexander further discloses that the processing device is capable to transmit a list including at least one favorite channel to the set top box to enable the display of the list (see Column 29, Lines 31-34 for the viewer profile analysis software being resident at the headend, therefore, if Alexander uses the viewer profile data to create a favorite program list (see Column 30, Lines 45-58), then the system of Alexander would be required to send the results to the viewer's set top device, otherwise the favorite channel list would not be able to display the results of the viewer profile analysis process executed at the headend).

Claim 45 corresponds to claim 45, where Alexander further teaches that the device is capable to transmit an HTML link to the set top box, where the HTML link is associated with a list including at least one favorite channel (see Column 8, Lines 36-61 and note that an Internet web page transmitted to a client devices includes an HTML link).

Claims 46-51 correspond to claim 43, where Bedard further teaches all of the limitations of these claims in the rejection of claims 37-42 (see above).

Referring to claims 65-67, see the rejection of claims 43-45, respectively.

Referring to claims 68-69, see the rejection of claim 43.

Referring to claims 70-74, see the rejection of claims 47-51, respectively.

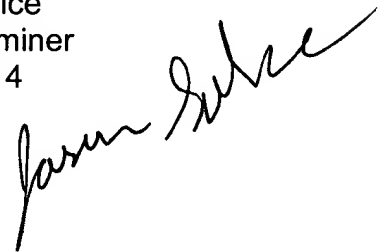
### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce  
Patent Examiner  
Art Unit 2614

A handwritten signature in black ink, appearing to read "Jason Salce", written in a cursive style.

December 29, 2005